THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.12940 OF 2006

DATE: 08th November 2006

Between:

Mukund das Bung, son of Ramakishan,
Aged 65 years, Occ: business,
R/o H.No.4-5-739 & 740, Kutbiguda,
Hyderabad.

... Petitioner.

And

1. The Commissioner, Municipal Corporation of Hyderabad having Head Office at Tank Bund, Basheerbagh, Hyderabad and 2 others.

... Respondents.

* * *

ORDER:

Though the matter is coming under the caption "interlocutory", at the request of the counsel, the writ petition is being disposed of finally.

2. Mukund Das Bung, the writ petitioner filed the present writ petition praying for a writ of Mandamus declaring inaction on the part of the respondents in not demolishing the dangerous structures over the house property bearing Municipal No.4-5-333 to 337, 740/1 to 4, situated at Kutbiguda, Hyderabad, as arbitrary, illegal and violation of Article 14 of the Constitution of India and issue such other writ or order or directions as deemed fit and

proper in the circumstances of the case.

3. It is stated that the petitioner is absolute owner of the house property bearing Municipal No.4-5-333 to 337, 740/1 to 4, situated at Kutbiguda, Hyderabad, and the said house is in a dilapidated condition and partly collapsed and it is very old and constructed long back more than 100 years ago. The structures are dangerous and in the rainy season, there is every possibility of being collapsed suddenly due to seepage of rain water. It is dangerous to inmates and also to the general public.

4. It is also stated that the petitioner submitted a representation to the first respondent commissioner, Municipal Corporation, Hyderabad, to take immediate steps under Section 456 of the Hyderabad Municipal Corporation Act (hereinafter in short referred to as 'the Act' for the purpose of convenience).

5. On the ground that the structures are dangerous and they are likely to fall at any moment, it is further stated that respondents 2 and 3 are tenants and in spite of being aware of the facts that the structures are dangerous, they are not vacating the premises. It is also stated that finally the petitioner filed a representation before the first respondent on 07.11.2005, but no action had been taken by the Commissioner, Municipal Corporation, Hyderabad. It is further stated that property is also affected in the road widening in the master plan and the petitioner had given his consent to take the land for the purpose of general public. But, the first respondent had not taken any action and again in this rainy season there is every possibility of the building

is being collapsed. In such circumstances, it is stated that the petitioner approached this Court praying for appropriate relief referred to supra.

6. The first respondent filed counter-affidavit specifying that it is true that he had received representation from the petitioner and on receipt of said representation, the respondent officials inspected the site in question and found the same in dilapidated condition. It is also stated that the officials of the respondent issued notices under Sections 459 and 456 of the Hyderabad Municipal Corporation Act, to the respondents 2 and 3. It is also stated that respondents 2 and 3 approached the City Civil Courts, Hyderabad, and filed O.S.No.6223 of 2005, O.S.No.640 of 2005 and M.A.No.185 of 2005 and obtained an order of *status quo* against respondent No.1. It is also stated that respondent No.1 is taking further steps to vacate the *status quo* order. In such circumstances, it is stated that the first respondent is unable to proceed with further action.

7. In view of the facts and circumstances well explained in the respective stands taken by the parties, this court is of the considered opinion that the writ petition be disposed of with a direction to first respondent to take immediate steps to get the interim orders vacated in the pending suits and further proceed with in accordance with law in pursuance of the representation made by the writ petition referred to supra.

8. With the above direction, the writ petition is disposed of. No

order as to costs.

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08-11-2006

BSB